

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VINCENT A. CEFALU,

Plaintiff,

v.

ERIC H. HOLDER, JR., U.S. Attorney
General, U.S. Department of Justice,

Defendant.

NO. C12-0303 TEH

ORDER GRANTING
PLAINTIFF'S MOTION FOR
LEAVE TO FILE MOTION FOR
RECONSIDERATION

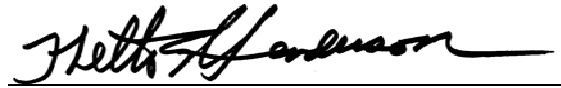
On September 23, 2013, the Court issued an order ("Order") granting in part and denying in part Defendant's motion for summary judgment. (Docket No. 135.) On September 26, 2013, Plaintiff moved for leave to file a motion for reconsideration of part of the Order and attached a "Brief in Support of Motion for Reconsideration" ("Reconsid. Br.") as Exhibit B thereto (Docket Nos. 138, 138-2). Plaintiff argues that: (1) the Court erred in applying the *McDonnell Douglas* burden-shifting framework to certain of Plaintiff's claims; (2) the Court failed to analyze Plaintiff's claim for intentional defacement of his badges under the "materially adverse to a reasonable employee or job applicant standard" articulated in *Burlington Northern & Santa Fe Railway Company. v. White*, 548 U.S. 53 (2006); and (3) the Court considered only whether defacement of the badges might be materially adverse to a reasonable employee generally, and not specifically to a "reasonable ATF employee." Reconsid. Br. at 3-5.

The Court is not convinced that Plaintiff has satisfied his burden under Civil Local Rule 7-9, which governs leave to file motions for reconsideration, but the Court nonetheless GRANTS Plaintiff's motion out of an abundance of caution. Plaintiff shall file his motion for reconsideration on or before **October 23, 2013**. Defendant shall file an opposition or statement of non-opposition, not to exceed ten pages, on or before **November 4, 2013**.

1 Plaintiff shall file a reply, not to exceed five pages, on or before **November 12, 2013**. Unless
2 otherwise ordered, the matter will then be deemed submitted without oral argument.

3
4 **IT IS SO ORDERED.**

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6 Dated: 10/21/13



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT